

Calendar No. 546

107TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 107-237

**REAL INTERSTATE DRIVER EQUITY ACT
OF 2001**

R E P O R T

OF THE

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

ON

H.R. 2546



AUGUST 1, 2002.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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REAL INTERSTATE DRIVER EQUITY ACT OF 2001

AUGUST 1, 2002.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany H.R. 2546]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 2546) to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate prearranged ground transportation service, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The purpose of this bill, as reported, is to prohibit a State, a political subdivision of a State, or an interstate agency of two or more States, other than the home licensing State, from enacting or enforcing any law, rule, or regulation requiring a license or fee on a motor vehicle that is providing prearranged interstate ground transportation service.

BACKGROUND AND NEEDS

Limousines, airport shuttles, executive sedans, black cars, and some taxicabs provide pre-arranged ground transportation services. Often in many metropolitan regions, not all points along a trip's route, including the origin, intermediate stops, and destination, are located in the same State. Currently, if a taxicab or limousine provides pre-arranged interstate service, a State or municipality in which the service operator is not licensed may require registration or licensing fees and may enforce these requirements through fines and vehicle impoundment. In short, these for-hire vehicles are sub-

ject not only to the laws and regulations of the State in which they are licensed or domiciled, but also to certain requirements that may be imposed by other States or municipalities in which fares originate or intermediate stops are made.

The Taxicab, Limousine, and Paratransit Association (TLPA) estimates that there are 18,600 companies in the United States that provide local, for-hire passenger transportation services using taxicabs, black cars, airport shuttles, executive sedans, or limousines. Limousines and taxicabs make up the largest portion of the for-hire passenger vehicle industry. According to TLPA, the companies that provide for-hire passenger transportation services operate a total of 293,000 vehicles and transport over 2 billion passengers each year. Of these, 10,000 limousine companies operate some 83,000 vehicles and transport over 400 million passengers per year, and 6,300 taxicab companies operate approximately 171,000 taxicabs and transport 1.4 billion passengers per year.

Limousine companies serve metropolitan areas nationwide with a heavy concentration of service in the northeast. According to TLPA, New York City alone has 5,700 limousines. Most limousine companies operate a small number of limousine vehicles, and the 50 largest limousine companies in the country have a combined fleet of only 6,500 vehicles. Typically, limousine services that are licensed by a State as a "limousine" operate relatively new luxury model vehicles and charge the customer based on time. These vehicles include limousines, luxury vans, luxury buses, and executive sedans. TLPA refers to the limousine industry as a \$4 billion-a-year business.

Taxicabs, which are typically licensed by a municipality as a "taxicab," charge the customer primarily based on distance traveled, and are generally brightly colored vehicles with the company name prominently displayed on the exterior. The average fleet size for these companies is just under 27 taxicab vehicles per company. The annual gross revenue of the United States taxicab industry is estimated to be approximately \$10 billion.

The Constitution grants the Federal government the authority to regulate interstate commerce, including interstate passenger transportation by motor carrier. As such, an operator performing interstate passenger transportation by motor carrier must obtain interstate operating authority from the United States Department of Transportation. Licensing of businesses providing intrastate transportation by limousines or taxicabs is performed largely by individual States. Limousines are typically licensed and regulated by State agencies; taxicabs are usually licensed and regulated at the municipal level. This has led to situations where a taxicab or limousine service operating intrastate as part of an interstate movement is required to comply with licensing requirements of the various States in and through which it operates. For example, some cities require that the pick up of any passenger within city limits for pre-arranged ground transportation service to a point in another State occur only by a for-hire vehicle licensed in the city. Another such restriction may be a requirement for the driver to be licensed in the State in which the trip originates.

H.R. 2546 would amend Federal transportation law to clarify that no State or political subdivision of a State, other than the home licensing State, may require a license or fee of a motor car-

rier or driver providing pre-arranged ground transportation service beginning in one State and ending in another, or beginning and ending in the same State with intermediate stops in or routing through another State. This limited exercise of Federal preemption authority is intended to allow operators of ground transportation services to provide interstate service under certain conditions without having to comply with licensing requirements of each State on the interstate trip. These conditions are: (1) the trip must be pre-arranged; and (2) the driver must comply with permissible criminal background check or drug testing requirements of any jurisdiction where pickups are made along the interstate trip which would otherwise require such measures as a prerequisite to obtaining a license in that State or municipality.

LEGISLATIVE HISTORY

H.R. 2546, introduced by Rep. Roy Blunt (R-MO) on July 18, 2001, with 21 co-sponsors, passed the House of Representatives by voice vote under suspension of the rules on November 13, 2001. It was referred to the Senate on November 14, 2001, and, upon receipt in the Senate, was read twice and referred to the Committee on Commerce, Science, and Transportation.

On April 18, 2002, the Committee on Commerce, Science, and Transportation ordered H.R. 2546 to be reported favorably with amendments. The amendments were offered by Senators Ernest F. Hollings and John McCain, and provided three changes: (1) to add a definition of "intermediate stop"; (2) to clarify the definition of transportation by motor carrier to distinguish it from part of certain combined air/ground intermodal movements; and (3) to clarify that this legislation does not prevent a State from enforcing in a non-discriminatory manner drug and alcohol testing requirements on drivers of motor carriers operating in pre-arranged interstate commerce.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 1, 2002.

Hon. ERNEST F. HOLLINGS,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2546, the Real Interstate Driver Equity Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Rachel Milberg (for federal costs), and Susan Sieg Tompkins (for state and local costs).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director.)

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2546—Real Interstate Driver Equity Act of 2001

H.R. 2546 would prohibit states from requiring limousine or shuttle operators to obtain a license or pay a fee to provide interstate service. CBO estimates that H.R. 2546 would not have a significant effect on the federal budget because the act would not expand the regulatory or enforcement authorities of federal agencies. The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

Prohibiting state and local governments from requiring certain licenses and fees would be an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of this mandate, primarily lost revenues from fees and penalties, would be well below the threshold established in UMRA (\$58 million in 2002, adjusted annually for inflation). This act contains no new private-sector mandates as defined in UMRA.

On November 9, 2001, CBO transmitted a cost estimate for H.R. 2546 as ordered reported by the House Committee on Transportation and Infrastructure on November 7, 2002. CBO estimates that neither version of the legislation would have a significant effect on the federal budget, and that both versions contain an intergovernmental mandate with costs below the UMRA threshold.

The CBO staff contacts for this estimate are Rachel Milberg (for federal costs), and Susan Sieg Tompkins (for the state and local costs). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

The legislation would have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

SUMMARY OF MAJOR PROVISIONS

The bill, as amended, would relieve certain motor carriers providing pre-arranged interstate transportation service from complying with licensing requirements imposed by States other than its home licensing State. The legislation also would clarify that it does not: (1) subject taxicab service to regulation under chapter 135 or section 31138; (2) prohibit or restrict an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation; or (3) restrict the right of a State to require pre-licensing drug testing or background investigations of individuals operating vehicles providing prearranged ground transportation service originating in that State.

The Committee envisions that, in order to minimize administrative burdens, drivers will have in their possession official copies of their criminal background check before providing pre-arranged interstate transportation in a jurisdiction which requires such

criminal background checks as a prerequisite to obtaining a license. This would allow local law enforcement authorities to be provided with immediate documentation upon request. The Committee also envisions the same approach would be followed with respect to jurisdictions which require drug testing of drivers. The driver would be expected to have in his or her possession documentation of passage of a drug test prior to providing pre-arranged interstate service within that jurisdiction.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This Act may be cited as the “Real Interstate Driver Equity Act of 2001.”

Section 2. Regulation of interstate pre-arranged ground transportation service.

This section would clarify that a State or local government or an interstate agency may not regulate pre-arranged interstate ground transportation provided by a motor carrier of passengers that meets all applicable Federal registration requirements for the interstate transportation of passengers and all applicable vehicle and intrastate passenger transportation licensing requirements of the carrier’s home State under State law.

The bill would not prohibit airport, train, or bus terminal operators from providing preferential access or facilities to one or more transportation providers. In addition, a State or local government would not be restricted from requiring, in a non-discriminatory manner, a drug test or criminal background investigation as a condition of picking up passengers in their jurisdiction for an interstate trip.

Interstate ground transportation includes any trip in which one or more passengers are picked up in one State and transported to an intermediate or final stop in another State. The bill prohibits a jurisdiction in a State different than the State in which the carrier is licensed from requiring other licenses or permits for pre-arranged interstate ground transportation.

A stop is an intermediate stop only if the driver does not perform any service for any other person while waiting to resume transport of the first passenger or passengers. In addition, an airport shuttle is providing interstate ground transportation when it transports unrelated passengers at multiple locations while traveling to or from an airport so long as at least one stop is in a State other than the one in which the airport is located.

Section 3. Definitions.

Pre-arranged ground transportation service is defined as transportation of passengers, arranged in advance, and provided in a motor vehicle with a seating capacity not exceeding 15 passengers, including the driver. This section would clarify the extent of the taxicab service exemption from regulation by the United States Department of Transportation. Taxicab service is defined by reference to local law and functional characteristics. The bill would amend existing law to increase the vehicle size from six passengers to eight passengers (including the driver), to conform to the commer-

cial motor vehicle safety provisions of the Transportation Equity Act for the 21st Century (P.L. 105–178).

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in roman):

TITLE 49. TRANSPORTATION

SUBTITLE IV. INTERSTATE TRANSPORTATION

PART B. MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

CHAPTER 131. GENERAL PROVISIONS

§ 13102. Definitions In this part, the following definitions shall apply:

(1) **BOARD.**—The term “Board” means the Surface Transportation Board.

(2) **BROKER.**—The term “broker” means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

(3) **CARRIER.**—The term “carrier” means a motor carrier, a water carrier, and a freight forwarder.

(4) **CONTRACT CARRIAGE.**—The term “contract carriage” means—

(A) for transportation provided before January 1, 1996, service provided pursuant to a permit issued under section 10923, as in effect on December 31, 1995; and

(B) for transportation provided after December 31, 1995, service provided under an agreement entered into under section 14101(b).

(5) **CONTROL.**—The term “control”, when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

(B) any other means.

(6) **FOREIGN MOTOR CARRIER.**—The term “foreign motor carrier” means a person (including a motor carrier of property but excluding a motor private carrier)—

(A)(i) that is domiciled in a contiguous foreign country;

or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a

motor private carrier or a motor carrier of property described in subparagraph (A)).

(7) FOREIGN MOTOR PRIVATE CARRIER.—The term “foreign motor private carrier” means a person (including a motor private carrier but excluding a motor carrier of property)—

(A)(i) that is domiciled in a contiguous foreign country;

or

(ii) that is owned or controlled by persons of a contiguous foreign country; and

(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

(8) FREIGHT FORWARDER.—The term “freight forwarder” means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle. The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

(9) HIGHWAY.—The term “highway” means a road, highway, street, and way in a State.

(10) HOUSEHOLD GOODS.—The term “household goods”, as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder; or

(B) arranged and paid for by another party.

(11) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term “household goods freight forwarder” means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

(12) MOTOR CARRIER.—The term “motor carrier” means a person providing motor vehicle transportation for compensation.

(13) MOTOR PRIVATE CARRIER.—The term “motor private carrier” means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 13501 of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(14) **MOTOR VEHICLE.**—The term “motor vehicle” means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(15) **NONCONTIGUOUS DOMESTIC TRADE.**—The term “non-contiguous domestic trade” means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

(16) **PERSON.**—The term “person”, in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

(17) **PRE-ARRANGED GROUND TRANSPORTATION SERVICE.**—*The term “pre-arranged ground transportation service” means transportation for a passenger (or a group of passengers) that is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).*

[(17)] (18) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

[(18)] (19) **STATE.**—The term “State” means the 50 States of the United States and the District of Columbia.

(20) **TAXICAB SERVICE.**—*The term “taxicab service” means passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that—*

(A) is licensed as a taxicab by a State or a local jurisdiction; or

(B) is offered by a person that—

(i) provides local transportation for a fare determined (except with respect to transportation to or from airports) primarily on the basis of the distance traveled; and

(ii) does not primarily provide transportation to or from airports.

[(19)] (21) **TRANSPORTATION.**—The term “transportation” includes—

(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

[(20)] (22) UNITED STATES.—The term “United States” means the States of the United States and the District of Columbia.

[(21)] (23) VESSEL.—The term “vessel” means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

[(22)] (24) WATER CARRIER.—The term “water carrier” means a person providing water transportation for compensation.

* * * * *

CHAPTER 135. JURISDICTION

§ 13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) a motor vehicle transporting only school children and teachers to or from school;

[(2)] a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;]

(2) *a motor vehicle providing taxicab service;*

(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;

(4) a motor vehicle controlled and operated by a farmer and transporting—

(A) the farmer’s agricultural or horticultural commodities and products; or

(B) supplies to the farm of the farmer;

(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total

- transportation between those places for the cooperative association or federation and its members during that fiscal year;
- (6) transportation by motor vehicle of—
- (A) ordinary livestock;
 - (B) agricultural or horticultural commodities (other than manufactured products thereof);
 - (C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);
 - (D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and
 - (E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;
- (7) a motor vehicle used only to distribute newspapers;
- (8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;
- (B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or
- (C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;
- (9) the operation of a motor vehicle in a national park or national monument;
- (10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;
- (11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);
- (12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;
- (13) transportation of wood chips;
- (14) brokers for motor carriers of passengers, except as provided in section 13904(d); or
- (15) transportation of broken, crushed, or powdered glass.
- (b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section

13101, neither the Secretary nor the Board has jurisdiction under this part over—

(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

* * * * *

CHAPTER 145. FEDERAL-STATE RELATIONS

§ 14501. Federal authority over intrastate transportation

(a) MOTOR CARRIERS OF PASSENGERS.—

(1) LIMITATION ON STATE LAW.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to—

(A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;

(B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required; or

(C) the authority to provide intrastate or interstate charter bus transportation.

This paragraph shall not apply to intrastate commuter bus operations, or to intrastate bus transportation of any nature in the State of Hawaii.

(2) MATTERS NOT COVERED.—Paragraph (1) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route con-

trols or limitations based on the size or weight of the motor vehicle, or the authority of a State to regulate carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization.

(b) FREIGHT FORWARDERS AND BROKERS.—

(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

(c) MOTOR CARRIERS OF PROPERTY.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

(2) MATTERS NOT COVERED.—Paragraph (1)—

(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

(B) does not apply to the transportation of household goods; and

(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(3) STATE STANDARD TRANSPORTATION PRACTICES.—

(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

- (i) uniform cargo liability rules,
- (ii) uniform bills of lading or receipts for property being transported,
- (iii) uniform cargo credit rules,

- (iv) antitrust immunity for joint line rates or routes, classifications, mileage guides, and pooling, or
- (v) antitrust immunity for agent-van line operations (as set forth in section 13907), if such law, regulation, or provision meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

- (i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Board under this part; and
- (ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

(4) NONAPPLICABILITY TO HAWAII.—This subsection shall not apply with respect to the State of Hawaii.

(d) *PRE-ARRANGED GROUND TRANSPORTATION.*—

(1) *IN GENERAL.*—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law requiring a license or fee on account of the fact that a motor vehicle is providing pre-arranged ground transportation service if the motor carrier providing such service—

(A) meets all applicable registration requirements under chapter 139 for the interstate transportation of passengers;

(B) meets all applicable vehicle and intrastate passenger licensing requirements of the State or States in which the motor carrier is domiciled or registered to do business; and

(C) is providing such service pursuant to a contract for—

(i) transportation by the motor carrier from one State, including intermediate stops, to a destination in another State; or

(ii) transportation by the motor carrier from one State, including intermediate stops in another State, to a destination in the original State.

(2) *INTERMEDIATE STOP DEFINED.*—In this section, the term “intermediate stop”, with respect to transportation by a motor carrier, means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to such passenger or passengers does not, before resuming the transportation of such passenger (or at least 1 of such passengers), provide transportation to any other person not included among the passengers being transported when the pause began.

(3) *MATTERS NOT COVERED.*—Nothing in this subsection shall be construed—

(A) *as subjecting taxicab service to regulation under chapter 135 or section 31138;*

(B) *as prohibiting or restricting an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation service; and*

(C) *as restricting the right of any State or political subdivision of a State to require, in a nondiscriminatory manner, that any individual operating a vehicle providing pre-arranged ground transportation service originating in the State or political subdivision have submitted to pre-licensing drug testing or a criminal background investigation of the records of the State in which the operator is domiciled, by the State or political subdivision by which the operator is licensed to provide such service, or by the motor carrier providing such service, as a condition of providing such service.*

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SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

PART B. COMMERCIAL

CHAPTER 311. COMMERCIAL MOTOR VEHICLE SAFETY

§ 31138. Minimum financial responsibility for transporting passengers

(a) **GENERAL REQUIREMENT.**—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

- (1) a place in another State;
- (2) another place in the same State through a place outside of that State; or
- (3) a place outside the United States.

(b) **MINIMUM AMOUNTS.**—The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

- (1) at least 16 passengers shall be at least \$5,000,000; and
- (2) not more than 15 passengers shall be at least \$1,500,000.

(c) **EVIDENCE OF FINANCIAL RESPONSIBILITY.**—

(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

- (A) insurance, including high self-retention.
- (B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of finan-

cial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.

(d) CIVIL PENALTY.—

(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(e) NONAPPLICATION.—This section does not apply to a motor vehicle—

(1) transporting only school children and teachers to or from school;

【(2) providing taxicab service, having a seating capacity of not more than 6 passengers, and not being operated on a regular route or between specified places;】

(2) *providing taxicab service (as defined in section 13102);*

(3) carrying not more than 15 individuals in a single, daily round trip to and from work; or

(4) providing transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehi-

cle will be at least the highest level required for any of such States.

